

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IMPLICIT NETWORKS, INC.,

No. C 10-04234 SI

Plaintiff,

**ORDER RE LEAVE TO AMEND PATENT
LOCAL RULE 3-3 DISCLOSURES**

v.

JUNIPER NETWORKS, INC.,

Defendant.

Currently before the Court is defendant Juniper Network's motion for leave to file amended invalidity contentions. Docket No. 74. Patent Local Rule 3-6 provides that amendment of invalidity contentions "may be made only by order of the Court upon a timely showing of good cause" and "examples of circumstances that may, absent undue prejudice to the non-moving party, support a finding of good cause include" a claim construction by the Court "different from that proposed by the party seeking amendment." Juniper contends that it should be allowed to amend its invalidity contentions to assert "additional arguments, evidence and prior art" in light of three claims that the Court construed differently from the proposed constructions offered by Juniper. Docket No. 74 at 1-2. Juniper admits that its proposed amendments are not finished, but will be produced within 30 days if the Court grants it leave to amend. *Id.*, at 2.

Implicit does not oppose the idea of allowing Juniper leave to amend its invalidity contentions as long as those amendments are, in fact, necessitated by the Court's claim construction order. Implicit does, however, object to the Court granting Juniper leave to file its amendments before the proposed amendments can be reviewed by Implicit and the Court to make sure good cause exists.

The Court finds that the good cause determination cannot be made at this juncture. Juniper must

1 submit its proposed amendments – and tie those proposed amendments to a specific showing of good
2 cause for each proposed amendment, *i.e.*, explain how the Court’s claim construction order necessitated
3 each proposed amendment. At that juncture, the Court will be able to make an informed decision on
4 whether good cause exists under Patent Local Rule 3-6 to allow each proposed amendment.

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6 **IT IS SO ORDERED.**

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8 Dated: April 20, 2012



SUSAN ILLSTON
United States District Judge